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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,896	07/12/2001	Ulrich Rosenbaum	DT-4009	2006

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DAVID TOREN, ESQ.  
SIDLEY, AUSTIN, BROWN & WOOD, LLP  
875 THIRD AVE  
NEW YORK, NY 10022

EXAMINER
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TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 04/29/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-3

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Specification*

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. That the fuel is in a pressure vessel with a delivery valve places no further limitations on the fuel gas per se..

Claim 5 is objected to under 37 CFR 1.75 © as being in improper form because a multiple dependent claim should refer back to the preceding claims in the alternative. See MPEP 608.01(n).

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the language "especially for setting implements for fastening elements" is indefinite.

In claim 3, "all" should be replaced by --of--.

In claim 5, it is not clear if applicant is reciting that the fragrances are produced from the recited items or if the fragrance has the recited characteristics. Clarification and/or correction are required. It should be noted that the characteristics of some of the recited items overlap.

In claim 6, "in the intended manner" has no antecedent support.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP

01311191.

JP teaches a fuel for cigarette lighters comprising butane-containing fuel gas and a fragrance (see abstract in its entirety).

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Accordingly, JP teaching all the material limitations of the claims anticipates the claims.

Claims 1-6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Yu (US 4,844,713).

Yu teaches a fragrant fuel composition comprising liquefied petroleum gas and a fragrance such as bayberry (see abstract; col. 1, lines 5-14; Example 1). Yu teaches that the ratio of fragrance to gas is 0.05-10:100. The fuel composition is prepared by preparing the fragrance as a solution and adding butane to the solution by use of pressurized inert gas (see col. 2, lines 28-57).

Accordingly, Yu teaching all the material limitations of the claims anticipates the claims.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 01311191.

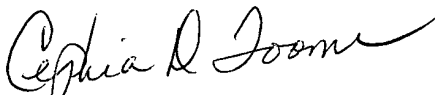
JP has been discussed above.

JP fails to teach the amount of fragrance present in the composition. However, it would have been obvious to one of ordinary skill in the art to have determined the optimum or workable range of the fragrance through routine experimentation, especially since JP teaches that the lighter gas is a scented fragrance lighter gas.

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The prior art made of record but not relied upon is cited for teaching fuels containing lower hydrocarbons and/or nitro methane.

Any inquiry concerning this communication should be directed to Cephia Toomer at telephone number (703) 308-2509.



Cephia D. Toomer

Patent Examiner-1714

Ctoomer:evh

4/9/02